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Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC
and the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

MARY ALBANESE, BROW FAMILY
PARTNERSHIP, ALLAN GOLDSTEIN,
LAURENCE KAYE, SUZANNE KAYE, ROSE
LESS, GORDON BENNETT, on behalf of themselves
and all Others Similarly Situated,

Plaintiffs,

v.

IRVING H. PICARD, Trustee for the Substantively
Consolidated SIPA Liquidation of Bernard L. Madoff
Investment Securities LLC and Bernard L. Madoff,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 09-01265 (SMB)

**STIPULATION AND ORDER FOR VOLUNTARY
DISMISSAL WITHOUT PREJUDICE**

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and the substantively consolidated estate of Bernard L. Madoff individually, by and through his counsel, Baker & Hostetler LLP, and Plaintiff Mary Albanese (“Ms. Albanese” and together with the Trustee, the “Parties”), a plaintiff in an action against the Trustee commenced by Ms. Albanese, Brow Family Partnership, Allan Goldstein, Laurence Kaye, Suzanne Kaye, Rose Less, Gordon Bennett, on behalf of themselves and all others similarly situated (the “Plaintiffs”), hereby stipulate and agree to the following:

1. On June 5, 2009, the Plaintiffs filed and served the Complaint against the Trustee.
2. On June 23, 2009, the Plaintiffs filed and served the Amended Complaint against the Trustee.
3. On July 17, 2009, Trustee answered the Complaint and asserted counterclaims against the Plaintiffs.
4. On February 10, 2017, Plaintiff Mary Albanese (“Ms. Albanese”) submitted to the Trustee a hardship application (the “Hardship Application”) requesting that the Trustee agree to dismiss the counterclaims asserted against her. In support of the Hardship Application, Ms. Albanese submitted to the Trustee financial statements and other information, all under penalty of perjury.
5. In reliance on the representations made by Ms. Albanese in the Hardship Application and other representations and/or materials submitted by Ms. Albanese in support of the Hardship Application, the Trustee in the exercise of his due and deliberate discretion has determined to dismiss his counterclaims against Ms. Albanese.
6. Ms. Albanese hereby affirms (i) that all representations made by her and all materials provided by her have been submitted by her as true and correct under penalty of

perjury and (ii) that the Trustee has relied upon these materials in exercising his discretion to dismiss the counterclaims asserted against Ms. Albanese.

7. Ms. Albanese hereby agrees that to the extent it is subsequently determined that she deliberately or intentionally submitted materially false and/or misleading representations, statements and/or materials in connection with the Hardship Application, (i) the Trustee shall have the right to reinstitute the claims asserted against her and/or pursue other remedies available to him and (ii) this Stipulation and Order shall act to toll any applicable statutes of limitation with respect to the Trustee's commencement of any such claims. Notwithstanding section 546(a) of the Bankruptcy Code, Ms. Albanese hereby agrees to waive any statute of limitations defense in any such actions or claims commenced by Trustee.

8. Pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii) and Fed. R. Bankr. P. 7041, the Trustee and Ms. Albanese hereby agree that upon approval of this Stipulation and Order by the Bankruptcy Court, the Trustee's claims against Ms. Albanese are dismissed without prejudice.

9. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and parties of interest.

10. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this Stipulation shall be deemed an original.

11. This Stipulation and Order is subject to the approval of the Bankruptcy Court,

failing which the provisions of the Stipulation and Order shall be void and of no effect.

Dated: New York, New York
March 6, 2017

By: /s/ Nicholas J. Cremona
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Attorneys for Mary Albanese

SO ORDERED

Dated: March 7, 2017
New York, New York

/s/ STUART M. BERNSTEIN
HON. STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE